IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21491 of 2004

Between:

1. Nallapuneni Appa Rao, S/o.Kashaiah,

Aged about 54 years, Occ: Agriculture,

R/o.Maddulapally, Khammam Rural Mandal,

Khammam District.

2. Nallapuneni Rama Rao, S/o.Kashaiah,

Aged about 52 years, Occ: Agriculture,

R/o.Maddulapally, Khammam Rural Mandal,

Khammam District

3. Nallapuneni Bhaskar Rao, S/o.Kashaiah,

R/o.Maddulapally, Khammam Rural Mandal,

Khammam District.

..... PETITIONER(S)

AND

The Mandal Revenue Officer,

Khammam Rural Mandal, Khammam Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings Rc.No.C/2691/04, dt.18.11.2004 issued by the respondent as illegal, ultravires to the provisionsof Articles 14, and 300(A) of the

Constitution of India besides being violative of principles of natural justice and consequently direct the respondent not to proceed further.

Counsel for the Petitioner: MR.V.S.R.ANJANEYALU

Counsel for the Respondent: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

The petitioners have filed this writ petition seeking a Mandamus to declare the Notice in Rc.No.C/2691/04, dated 18.11.2004 issued by the respondent as illegal and arbitrary.

The grievance of the petitioners is that the respondent, without affording any opportunity to them passed the impugned notice.

The learned counsel for the petitioners has contended that the petitioners are the owners of the property of an extent of Ac.15.25 gts. situated in Gurralapudu Revenue Village and for stopping further erosion of soil, they are making construction on their lands, and therefore, the impugned notice is in clear violation of Article-14 and 300(A) of Constitution of India and principles of natural justice.

The learned Government Pleader for Revenue has opposed the same on the ground that the petitioners are making constructions by diverting the natural flow of water, and therefore, the impugned notice has been issued and there are no grounds to interfere with the notice under challenge.

The impugned notice shows that the petitioners, who are pattadars were diverting the water canal by constructing a wall with stones. It is also stated that they have not obtained any prior permission for utilizing the water for the way in which the petitioners constructed the wall. As seen from this notice, no reasonable opportunity was given to the petitioners to represent their case whether they are diverting the water canal or utilizing the water for their own purposes.

Having regard to the facts and circumstances of the case, I am of the opinion that as the respondent passed the impugned notice without giving any opportunity to the petitioners, it suffers from violation of principles of natural justice, and it is liable to be set aside. Accordingly, the impugned notice, dated 18.11.2004 is set aside. However, if the respondent-Mandal Revenue Officer intends to proceed against the petitioners, he shall give a reasonable opportunity to the petitioners to put forward their case and thereafter, pass appropriate orders in accordance with law.

The writ petition is accordingly disposed of at the stage of admission. There shall be no order as to costs.

(K.C. BHANU, J)

24th November, 2004.

To

1. The Mandal Revenue Officer,

Khammam Rural Mandal, Khammam Dist.

2. Two C.Cs. to the Government Pleader for Revenue, High Court Buildings, Hyderabad (OUT)

3. Two C.D. copies

Note: Furnish copy in two days

(B/o)

bcj